IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 390 OF 2007

SMT. LAXMI VISHNU PARSEKAR AND 2 ORS., ... Petitioners

Versus

MARIA FELICIANA DA COSTA CAVALHO AND ANR., ... Respondents

Mr. V. A. Lawande,Advocate for the petitioners.
Mr. Joseph Vaz,Advocate for the respondents.

Coram:- F.I. REBELLO, J.

Date:- 22nd November, 2007

P.C.

The appellants herein were the plaintiffs and respondents were the defendants. The suit was filed by the appellants herein to restrain the respondents from interfering with property identified under survey No.105/6 and 105/3 of village Mallar. The trial Court after considering the contentions of the parties was pleased to grant injunction as prayed for to restrain the respondents herein from carrying out construction work and interfering with the suit property till the disposal of the suit. On perusal of order it would indicate that the trial Court mainly proceeded on the footing that the appellants herein had a house in the property identified under survey No.105/6 which thye are claiming as mundcarial house. In so far as property No.105/3 is concerned, the issue was on the footing that the appellants herein were the tenant and in the survey number his name was shown as tenant.

Aggrieved respondents herein preferred an appeal. The learned trial Court by the impugned order of 2.7.2007 partly allowed the appeal to the extent that the possession of the defendant in so far as the house under the

structure namely Tulas, Cowshed and the toilet is concerned injunction was granted and was maintained. The injunction in so far as rest of the property in survey No.105/6 & 105/3 are concerned, was vacated. This order is the subject matter of the present petition.

The only evidence the petitioners herein had proceeded in support of their tenancy claim were affidavits and the entry in survey records. There is no other documentary evidence produced in form of rent receipts or any other document. It was for the applicant prima facie to establish their rights in the suit property. The learned trial Court also considered the affidavit given by Jose Luis Vaz showing that he was not the owner of the property and that the property was owned by his brother and on his death the plot was allotted to his sister Barto Vaz Costa. The respondents herein also produced inventory as also partition proof. The order of the trial Court doesnot suffer from want of jurisdiction or excess of jurisdiction or disclosed error of law apparent on the face of the record.

It is not fit case to interfere in the exercise of our extra ordinary jurisdiction. With the above, writ petition disposed of

F.I. REBELLO, J.

SMA